

DOCKET NO: 273286US0PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
HIROSHI SUGITATSU, ET AL. : EXAMINER: MCGURTHY-BANKS, T. M.
SERIAL NO: 10/541,457 :
FILED: JULY 6, 2005 : GROUP ART UNIT: 1793
FOR: METHOD FOR REDUCING :
CHROMIUM CONTAINING RAW :
MATERIAL

REPLY BRIEF

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

The following Reply Brief is in reply to the Examiner's Answer dated July 24, 2008 (Answer).

The Statement of Grounds of Rejection (Answer at 3-8) is essentially identical to the statement in the (Final) Office Action of January 12, 2007, which has already been responded to in the Appeal Brief. The following is in reply to the "Response to Argument" (Answer at 8-9).

In response to Applicants' argument that they are able to increase the chromium reduction degree with the presently-recited rapid temperature rise by radiation heating, the Examiner finds that "this increase in the chromium reduction degree is not claimed" (Answer at 8).

In reply, such increase, which the Examiner has not challenged, is an inherent property or result of the presently-claimed method. Such properties or results need not be recited in the claims.

The Examiner finds that Applicants have argued that Meissner et al “is non-analogous art with respect to” Kikuchi et al, Kundrat and Ibaraki et al (Answer at 8).

In reply, Applicants have not characterized Meissner et al as non-analogous art. Rather, Applicants have simply argued that Meissner et al is irrelevant to patentability herein, for reasons explained in the Appeal Brief.

With regard to the Harada Declaration and its discussion of Meissner et al, the Examiner finds that “the position of the examiner is not to propose that the combination of Kikuchi et al, Kundrat and Ibaraki et al with Meissner et al would yield the same result as in appellant’s invention, but that the temperature rate under these operating conditions is not obvious” (Answer at 8).

In reply, this finding is incongruous. For reasons discussed in the Appeal Brief, Meissner et al is irrelevant herein.

The Examiner finds that Applicants have failed “to provide an actual comparison of temperature rates that would demonstrate the criticality of 13.96 °C/s” (Answer at 9).

In reply, no *prima facie* case of obviousness has been made out and therefore, no demonstration of criticality is required to establish patentability.

Applicants continue to maintain that the rejections should be REVERSED.

Respectfully submitted,

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